

**BAKER & HOSTETLER LLP**

45 Rockefeller Plaza  
New York, NY 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Nicholas J. Cremona  
Dean D. Hunt

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

Defendant.

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

PAUL KUNIN

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04716 (SMB)

**TRUSTEE'S REQUEST TO ENTER DEFAULT**

To: CLERK OF THE COURT  
UNITED STATES BANKRUPTCY COURT

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, respectfully requests that the Clerk of the Court issue a Certificate of Default against defendant Paul Kunin pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure, for failure to plead or otherwise defend the above-captioned action as it fully appears from the Court file and from the attached Affidavit.

**WHEREFORE**, the Trustee respectfully requests that this Court grant the Trustee's Motion in its entirety and provide for such other relief as this Court deems just and proper.

Dated: New York, New York  
February 26, 2015

Respectfully submitted,

Of Counsel:

**BAKER & HOSTETLER LLP**  
811 Main Street, Suite 1100  
Houston, Texas 77002-0518  
Telephone: 713.751.1600  
Facsimile: 713.751.1717  
Dean D. Hunt  
Email: [dhunt@bakerlaw.com](mailto:dhunt@bakerlaw.com)

/s/ Nicholas J. Cremona

**BAKER & HOSTETLER LLP**  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Email: [dsheehan@bakerlaw.com](mailto:dsheehan@bakerlaw.com)  
Nicholas J. Cremona  
Email: [ncremona@bakerlaw.com](mailto:ncremona@bakerlaw.com)

*Attorneys for Irving H. Picard, Esq., Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
And Bernard L. Madoff*

**BAKER & HOSTETLER LLP**

45 Rockefeller Plaza

New York, NY 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

David J. Sheehan

Nicholas J. Cremona

Dean D. Hunt

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

PAUL KUNIN,

Defendant.

Adv. Pro. No. 10-04716 (SMB)

**AFFIDAVIT SUPPORTING ENTRY OF DEFAULT**

STATE OF TEXAS            )  
                                      ) ss:  
COUNTY OF HARRIS        )

Farrell Hochmuth, being duly sworn, hereby attests as follows:

1. I was admitted pro hac vice into this Court and am a partner at the firm of Baker & Hostetler LLP, which is counsel for Irving H. Picard (“Trustee”), Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the estate of Bernard L. Madoff, individually.

2. On December 01, 2010, the Trustee commenced this adversary proceeding by filing a complaint (the “Complaint”) against NTC & Co. LLP and Paul Kunin (“Defendants”).<sup>1</sup> (Dkt. No. 1). The Complaint asserted claims pursuant to sections 78fff(b), 78FFF-1(a) and 78fff-2(c)(3) of SIPA, sections 105(a), 544, 548(a), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of fraudulent transfers in connection with certain transfers of property by BLMIS to or for the benefit of Defendants. (*Id.*).

3. On February 7, 2011, the Clerk of this Court issued a summons upon Defendants. (Dkt. No. 4).

4. On February 7, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon Defendant Paul Kunin (“the Defaulting Defendant”). (*See* Dkt. No. 5). An Affidavit of Service evidencing proper and timely service was filed with the Court. (*See* Ex. A., Affidavit of Service, Dkt. No. 5).

5. Pursuant to the Order (1) Establishing Litigation Case Management Procedures For Avoidance Actions And (2) Amending The February 16, 2010 Protective Order governing the litigation of certain avoidance actions, including this adversary proceeding, the time by which the Defaulting Defendant may answer or otherwise move with respect to the Complaint was set to expire on April 8, 2011. (*See* Dkt. Nos. 2 and 4).

6. On February 24, 2011, the Trustee and Defendants stipulated and agreed that the time by which the Defaulting Defendant may answer or otherwise respond to the Complaint would be June 10, 2011. The Trustee filed a Notice of Extension with this Court on February 24, 2011. (*See* Dkt. Nos 6 and 7).

7. Despite being duly served with the Summons and Complaint and being given an extension to answer or otherwise respond to the Complaint, the Defaulting Defendant did not file an answer, move, or otherwise respond to the Complaint on or before June 10, 2011.

8. Upon information and belief, Defaulting Defendant Paul Kunin is neither an infant nor incompetent.


9. On February 25, 2015, I performed a search on the Department of Defense Manpower Data Center (DMDC). Upon searching the information data banks of DMDC, the DMDC does not possess any information indicating that Defaulting Defendant Paul Kunun is currently on active duty as to all branches of the Military.

10. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

---

<sup>1</sup> NTC & Co. LLP was dismissed from this proceeding on May 11, 2011. (*See* Dkt. No. 8).

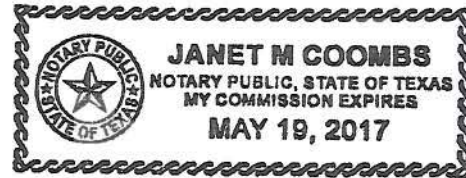


  
Farrell Hochmuth

Sworn to before me this 25<sup>th</sup> day of February, 2015

  
Notary Public, State of Texas

My Commission Expires On 5/19/17



UNITED STATES BANKRUPTCY COURT  
Southern District of New York

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.  
BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

Case No. 09-11893 (BRL)

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

Adv. Pro. No. 10-04716 (BRL)

v.

NTC & Co. LLP, as former custodian of an  
Individual Retirement Account for the benefit of  
Paul Kunin; and PAUL KUNIN,

Defendants.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NEW YORK )

I, Yan Fayerman declare:

1. I am over the age of 18 years and not a party to these chapter 11 cases.
2. I am employed by Donlin, Recano & Company, Inc., 419 Park Avenue South, Suite 1206, New York, NY 10016.
3. On the 7<sup>th</sup> day of February, 2011, I caused a true and accurate copy of the:
  - (i) "Complaint", along with the relevant exhibits (Docket No. 1); and the
  - (ii) "Notice of Applicability of the Order Approving Case Management Procedures for Avoidance Actions" (Docket No. 2); and the

300108860



- (iii) "Summons and Notice of Pretrial Conference in An Adversary Proceeding" (Docket No. 4); and the
- (iv) "Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order" dated November 11, 2010; and the
- (v) "Avoidance Action Executive Summary Letter dated December 20, 2010"; and the
- (vi) "Second Amended Notice of Omnibus Avoidance Action Hearing Dates",

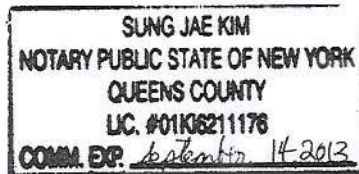
to be served upon the parties listed on Exhibit 1, attached hereto, via First Class US Mail.

- 4. Said documents were securely enclosed in postage prepaid envelopes and delivered to an office of the United States Postal Service for delivery by First Class Mail.
- 5. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed this 7<sup>th</sup> day of February, 2011 at New York, New York.

By *Van Fayerman*  
Van Fayerman

Sworn before me this  
7<sup>th</sup> day of February, 2011

*Sung Jae Kim*  
Notary Public





Date : 2/7/2011

Adv Pro No: 10-04716 (BRL)

Page # : 1

Exhibit 1  
Redacted Version

NTC & CO.

---

THOMAS J. SCHELL  
BRYAN CAVE LLP  
1290 AVENUE OF THE AMERICAS  
NEW YORK NY 10104

Counsel - 004466 012157

PAUL KUNIN

---

PAUL KUNIN  
OAK BROOK IL 60523

004467 009891

PAUL KUNIN  
ST. LOUIS PARK MN 55415

004467 009892

PAUL KUNIN  
MINNETONKA MN 55305

004467 009893